THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO.12129 OF 2004

DISPOSED OF ON 18.11.2005.

BETWEEN:

K.DUGGI REDDY AND OTHERS … PETITIONERS

AND

DISTRICT COLLECTOR, KADAPA

AND OTHERS … RESPONDENTS

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WRIT PETITION NO.12129 OF 2004

O R D E R :

1. This writ petition is filed by the petitioners who are 9 in number assailing the action of 1st respondent-District Collector in reviewing the decision of constructing M.P.Upper Primary School Building in the Government assessed waste land being Sy.No.1614 and permitting to construct the said school building in private land being S.No.1250/2 of Ithrampet village, B.Kodur Mandal, Kadapa District.

2. 1st petitioner is Upa Sarpanch, petitioner Nos.2 to 6 are ward members, and petitioner Nos.7 and 8 are villagers of Ithrampet village. 1st respondent issued proceedings on 8.12.2002 whereunder permission has been granted for construction of school building in land bearing S.No.1614. The said permission came to be confirmed under proceedings dated 11.3.2003. One Gunjalapalli Thirupathi Reddy gifted an extent of 0.88 cents comprising in S.No.1250/2 for constructing the upper primary school building. The Gram Panchayat as well as the School Committee approved for construction of school building in S.No.1250/2 instead of constructing the building in S.No.1614. 1st respondent considering the representations of villagers and resolutions of Gram Panchayat as well as the School Education Committee issued revised proceedings whereunder permission to construct building in S.No.1250/2 has been accorded. Assailing the revised proceedings, the petitioners have filed this writ petition by invoking the jurisdiction under Article 226 of the Constitution of India.

3. The respondents filed counter affidavits. Y.Ramchander Reddy has sworn to the counter affidavit filed on behalf of 2nd respondent. The circumstances under which the revised proceedings came to be issued have been detailed in the counter affidavit. It is suffice to refer para a5 of the counter affidavit and it is thus:

" 5. In reply to para No.5 of the affidavit it is submitted that all the allegations are false and misleading. It is submitted that no pressure has been brought by the 5th respondent upon the other respondents to change the place of construction of the school building from S.No.1614 to 1250/2. It is submitted

that the villagers of Ithrampet have made representations and also made dharnas to construct the MPUP school building in S.No.1250/2 in an extent of 0.85 cents, in fact the Gram Panchayat has passed a resolution on 29.3.2002 for construction of the school at S.No.1250/2. As the said land is very near to the village. Which is most convenient to the students though it is private patta land, the patta land owner by name Gajulapalli Thirupal Reddy S/o Chenna Reddy voluntarily came to the office and offered to give the land to the Government for the construction of the school building. Accordingly the said Thirupal Reddy has relinquished his rights over the land by way of written endorsement and handed over the land to the Government. Then the proposal was also sent to the District Collector for further action. Upon that the District Collector has ordered on 1.6.2002 in (E1)/2129/2002 to accept the relinquishment of Ryothwari land in S.No.1250/2 according to BSO 33 para 6 that the Mandal Revenue Officer is empowered to accept the relinquishment.

The villagers have also consulted with the District Collector and gave their representation to construct the school building in s.No.1250/2. The District Collector also visited the site Sy.No.1250/2. It is pertinent to mention herein that the school education committee had passed a resolution on 23.11.2002 to construct the building in S.No.1250/2. It is also submitted that the petitioner alone made objection to construct the school building in S.No.1250/2. As per order of District Collector dt.11.6.2004 the Additional Project Co-ordinator, DPEP, Cuddapah has sent a letter to the Executive Engineer Panchayat Raj, Rajampet, to entrust the work of construction of MPUP in S.No.1250/2. Accordingly, an amount of Rs.2,00,000/- has been sanctioned. To that effect, part amount of Rs.65,000/- also sanctioned. Now the work also stated, walls of the school buildings, has been constructed upto the roof level. The entire work is going on as per the procedure, presently the work has been stalled due to the orders of this Hon'ble Court."

4. Heard learned counsel appearing for the petitioners and learned Government Pleader for Revenue appearing for respondents 1 to 4 and learned counsel appearing for 5th respondent.

5. Learned counsel appearing for the petitioners submits that S.No.1614 is a suitable land for construction of school building and whereas S.No.1250/2 is far off from the village and it is nearby tank and therefore it is not suitable for construction of school building.

6. Learned Government Pleader for Revenue appearing for the respondents 1 to 4 submits that revised proceedings have been issued taking into consideration the representations of the villagers as well as resolutions passed by the Gram Panchayat and the School Education Committee.

7. On going through the records placed before me I am of the opinion that the petitioners having failed to secure majority in the Gram Panchayat to resist the

proposal of constructing the school building in S.No.1250/2resorted to invoke the jurisdiction of this Court under Article 226 of the Constitution of India. It is for the authorities to chose the place suitable for construction of the school building. S.No.1250/2 belongs to a private party and he donated the land for construction of the school building whereas S.No.1614 is an assessed waste land. The assessed waste land can be utilized for some other public purpose in case the school building is constructed in the land donated by a private party. The respondents-authorities have taken into account the resolutions passed by the Gram Panchayat as well as the School Education Committee (5th respondent) and issued revised proceedings. I do not see any reason to interfere with the impugned order in the writ petition. Thus the writ petition is devoid of merits and the same is hereby dismissed. No costs.

Dt: 18-11-2005. (B.Seshasayana Reddy,J)

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